

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAVID MATTHEW BURBANK,

Petitioner,

vs.

DIRECTOR, NDOC, et al.,

Respondents.

3:05-cv-00583-LRH-VPC

ORDER

This closed habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's motion (#17) to reopen the case.

Petitioner seeks to reopen the matter on the basis that he now allegedly has exhausted state court remedies. By a final judgment entered on March 8, 2006, this action was dismissed without prejudice for lack of exhaustion. Both this Court and the Court of Appeals denied a certificate of appealability. This action therefore is and has been closed by a final and conclusive judgment. If petitioner wishes to seek a writ of habeas corpus, he must file a new petition in a new action.

IT THEREFORE IS ORDERED that the motion (#17) to reopen the case is DENIED.

DATED this 26<sup>th</sup> day of December, 2006.



LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE